

REMARKS

In the aforesaid Office Action of January 2, 2004, claims 1-6 (as previously presented) have been rejected under 35 U.S.C. §102(b) as assertedly anticipated by Deignan et al. U.S. Pat. 5,768,758, and claim 7 (as previously presented) has been rejected under 35 U.S.C. §102(b) as assertedly obvious over Deignan et al. For the reasons more fully discussed below, the applicant respectfully disagrees and traverses these rejections. Reconsideration of this application is respectfully requested.

As the specification and claims of the present application make clear, the present invention resides in a so-called "mattress closing tape", a term of art well recognized and understood in the bedding industry to signify a narrow-width longitudinal band used to enclose a perimeter edge cord or bead in the upholstery of mattresses and box springs. In contrast to the prior art, the present mattress closing tape is uniquely fabricated of a crochet warp knitted construction comprised of both warp and filling yarns inter-knitted with each other. More particularly, the warp knitted structure of the tape interknits a set of warp yarns and multiple fillings forming base and pattern fabric layers integrally-knitted together in a fabric structure which is substantially flat in cross-section and sufficiently flexible to be adapted to closely conform to an edge bead of a mattress. Independent claim 1 has been amended to clarify these distinguishing characteristics of the mattress closing tape. New claims 9-15 are directed to the combination of the tape in a mattress in covering relation to an edge bead thereof.

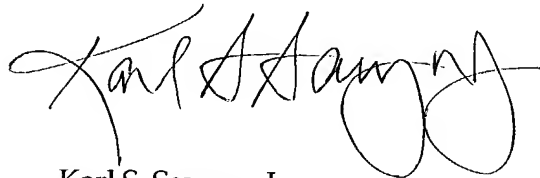
It is respectfully submitted that the Deignan et al reference fails to disclose or even remotely suggest the claimed features of the present mattress closing tape. While the Deignan et al reference admittedly teaches a crochet-type narrow-width warp-knitted band, the band would be unsuitable for, and indeed, would be essentially incapable of acceptable use as, a mattress closing tape. In particular, perhaps the most fundamental teaching of the Deignan et al reference is the provision of a draw cord by which the band of Deignan et al can be drawn tightly to secure an upholstery fabric in place on a seat such as an automobile seat. This feature of Deignan et al is so central and essential to the invention of Deignan et al that it would represent a total departure from Deignan et al to modify or eliminate the provision of the draw cord, yet it is precisely the presence of the draw cord that prevents Deignan et al from being reasonably usable

or adaptable as a mattress closing tape. A person of ordinary skill in the art would readily recognize that the draw cord would inhibit and interfere with the ability of the Deignan et al band to be secured to a mattress in close conformity about an edge bead of the mattress. To be reasonably functional as a mattress closing tape, the band must be substantially flat in cross-section as is the present band. Hence, the teachings of Deignan et al neither anticipate nor render obvious the present mattress closing tape but, on the contrary, teach away from the present invention.

Further, the Deignan et al reference does not anticipate or render obvious the dual layer knitted construction of the present mattress closing tape as defined in the present claims. Specifically, as recited in each of the independent claims, the warp and filling yarns making up the present mattress closing tape are warp-knitted into integral base and patterned fabric layers. The Office Action asserts that Deignan et al's teaching of folding over the band onto itself and stitching the band together creates the equivalent of base and patterned fabric layers. The applicant respectfully disagrees. In the present mattress closing tape, the base and patterned fabric layers are formed integrally by interknitting the warp and filling yarns together, which is not accomplished by the folding and stitching of the Deignan web together.

Thus, it is respectfully submitted that Deignan et al fails entirely to anticipate or render obvious the present crochet-knitted mattress closing tape. For all of the reasons set forth above, it is respectfully submitted that the claims of this application patentably define the present invention over the cited prior art. Favorable reconsideration and issuance of a Notice of Allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Karl S. Sawyer, Jr.', with a stylized, cursive script.

Karl S. Sawyer, Jr.
Kennedy Covington Lobdell & Hickman, LLP
Hearst Tower, 47th Floor
214 North Tryon Street
Charlotte, North Carolina 28202
Telephone (704) 331-7400
-- Attorney for Applicant